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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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I. STEPHEN RABIN,
 	
              Plaintiff,
 	
    v.
 	
ROBERT A MALONE,
 	
            Defendant.
	CASE NO. C06-1505-MJP
	
	ORDER DENYING MOTION FOR APPROVAL OF DISTRIBUTION FROM THE NET SETTLEMENT FUND

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16   This matter comes before the Court on the motion of lead Plaintiff for an order approving

17 final distribution and donation to non-profit organization of the net settlement fund. (Dkt. No.

18 139.) Having reviewed the motion and all related documents, the Court DENIES the motion for

19 the following reasons:

20   The motion seeks 10% of the cy pres fund be awarded to the George B And Diana Allen

21 Family Foundation ("the Foundation"). (DKt. No. 139 at 11.) Lead Plaintiff and his wife are the

22 sole trustees of the Foundation. (Id.) Since its inception in 1999, the lead Plaintiff and his wife

23 provide the exclusive financial support for the Foundation. The Court rejects the Foundation as a

24 possible beneficiary of the cy pres fund. The close relationship between the lead Plaintiff and

ORDER DENYING MOTION FOR APPROVAL
OF DISTRIBUTION FROM THE NET
SETTLEMENT FUND- 1

1   the Foundation is such that an award of 10% from the cy pres fund to the Foundation has the

2   appearance of impropriety or self-dealing. In re Linerboard Antitrust Litigation, 2008 WL

3   4542669, *5 (E.D.Pa. Oct. 3, 2008) (Because an attorney formerly associated with the case

4   served in lead role at proposed beneficiary, the Court rejected it as a recipient of a cy pres

5   award."). The Court takes no position as to the worthiness of the Foundation as an organization

6   of the efficacy of their work. But, to avoid the appearance of impropriety, another beneficiary

7   must be found.

8   The clerk is ordered to provide copies of this order to all counsel.

9   Dated this 24th day of September, 2013.

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11   _____

                     Marsha J. Pechman

12   Chief United States District Judge

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ORDER DENYING MOTION FOR APPROVAL
OF DISTRIBUTION FROM THE NET
SETTLEMENT FUND- 2